MONTANA LEGISLATIVE HISTORY

Chapter 324 1993

Bill H 549 S _____ Original bill & history ____C

H. Committee on Education			S. Committee on Education		
Hearing Date(s)	Feb 13	✓C	Hearing Date(s)	Mar 02	✓C
		C			C
		C			C
		C			C
Date Out	Feb 13	✓C		Mar 02	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Note: The identical statement presented by Mr. McGarvey to the House Education Committee was also presented to the Senate Education Committee.

February 13, 1973

The meeting was called to order at 8 a.m., with all members present except Representative Cox, who was excused.

House Bill 442 was discussed first. Representative Forsgren, chief sponsor, said that he introduced this bill at the request of the State Fire Marshall, and that it updates fire laws as they pertain to schools. He requested that the committee amend the bill to include the code 75-8309.

House Bill 443 was discussed next. Representative Baucus, chief sponsor, said that this bill is designed to honor prisoners of war and the missing in action in the Vietnam war by providing free tuition to their children in the university system.

House Bill 466 was discussed next. Representative Marks, chief sponsor, explained that the bill is intended to take care of tuition between districts in a more equitable manner. Mr. John Campbell (Helena Schools); Mr. Bob Laumeyer (Boulder); Mr. Bob Stockton (State Superintendent's Office); testified as proponents of the bill.

House Bills 340 and 564 were considered together. Representative Marbut, chief sponsor, asked that the committee hold these bills over until the 1974 session.

House Bill 303 was considered next. Representative Bradley, chief sponsor, said that the bill defines student teachers and gives them some protection. Mr. Lloyd Markell (MES) testified as a proponent of the bill.

House Bill 549 was considered next. Representative Menahan, chief sponsor, introduced Mr. Jim McGarvey (statement attached). Chadwick Smith (MSBA); Lloyd Markell, Leroy Corbin, and Dee Cooper testified as proponents of the bill.

The committee then went into executive session.

Representative Marks moved that House Bill 564 BE HELD OVER until

Representative Marks moved that House Bill 466 DO PASS. The motion was seconded and passed with Representatives Lund, Lynch and Cox excused.

Representative Bradley moved that House Bill 303 DO PASS. The motion was seconded and passed with Representatives Lund, Lynch and Cox excused.

Chairman Gunderson turned the chair over to Representative Cotton so that he might take up House Bill 109. Representative Gunderson then moved adoption of the attached amendments. The motion was seconded and passed with Representatives Lund, Lynch, Cox and Menahan excused. Representative Marks then moved to amend section 3 by deleting all the material after the word "April." The motion was seconded and failed with Representatives Hubing, Marks and Warfield voting YES, Representatives Lund, Lynch and Cox excused. Representative Gunderson then moved that House Bill 109 DO PASS AS AMENDED. Representative Marks made a substitute motion that the bill BE HELD OVER until the 1974 session. The substitute motion was seconded and failed with Representatives Forsgren, Hubing, Marks, Menahan and Warfield voting YES, Representatives Lund, Lynch and Cox excused. The original motion by Representative Gunderson was then seconded and passed with Representatives Hubing, Marks and Warfield voting NO, Representatives Lund, Lynch and Cox excused.

Representative Holmes moved that House Bill 549 be amended as shown on the attached sheet. After discussion, she withdrew the motion. Representative Murphy then moved that House Bill 549 DO PASS. The motion was seconded and passed with Representatives Bradley, Lund and Cox excused.

There being no further business, the meeting adjourned at 10:30 a.m.

Jack Gunderson

JACK GUNDERSON, Chairman

PROPOSED AMENDMENT TO HOUSE BILL 549:

be amended on page 1, lines 15 and 16, by striking the words: "received notification of his reelection", and inserting in lieu thereof the words: "has not received notice of termination".

MONTANA STATE FEDERATION OF TEACHERS
AMERICAN FEDERATION OF TEACHERS
AFL-CIO
125 West Granite Street Butte, Montana 59701 (406) 723-5141

RE: HOUSE BILL 549 2/14/73

"AN ACT PROVIDING FOR NOTIFICATION OF NONTENURE TEACHERS REGARDING THEIR ELECTION OR TERMINATION FOR THE FOLLOWING YEAR."

COMMITTEE: HOUSE EDUCATION COMMITTEE

Chairman Gunderson, Members of the Committee. My name is Jim McGarvey and I appear before you as a representative of the Montana Federation of Teachers, AFT---AFL-CIO, in support of House Bill 549, providing for notification of nontenure teachers regarding their election or termination for the following year.

This bill provides nontenure teachers the assurance of knowing by the 1st of April if they are to be rehired for the following year.

We feel that a school district should know by April 1, the needs of the school

if they are to be rehired for the following year.

We feel that a school district should know by April 1, the needs of the school district regarding staff positions for the following school term. By this time, a teacher should have demonstrated his or her ability as a competent teacher. Further, we feel that this courtesy will enable persons who are not to be rehired, plenty of time to look for another job.

Further, we also recognize that many school districts already extend this courtesy to nontenure teachers, however, not all school districts do and this places a difficult burden on the nontenure teacher, especially if the person concerned has to move his family to a new location.

This bill also protects the Board of Trustees and the school administration. Should a financial crisis arise and necessitate a reduction in staff after April 1, the Board is at liberty to terminate nontenure teachers because of the financial burden placed on the school.

James McCarvey, Executive Director
Montana Federation of Teachers
AFT---AFL-CIO

SENATE COMMITTEE EDUCATION

Date 3/3/93 House Bill No. 549 Time 9:15 AM

NAME	YES	NO
BREEDEN, J. W.		
CARL, FRED	✓	
GOODHEART, B.J.	✓	
JAMES, DAVID		
KLINDT, HERB	✓	
MATHERS, WILLIAM	✓	
MC CALLUM, GEORGE	✓	
THIESEN, CORNIE		
VAINIO, LEONARD		
BOYLAN, PAUL, VICE CHMN.	✓	
GILFEATHER, P. J., CHMN.	✓	

Secretary LYNN HIATT

Chairman P. J. GILFEATHER

Motion: [illegible]

Senator McCallum moved and Senator Klindt seconded the amendments to the bill. All members were in favor of the amendments.

Senator Boylan moved and Senator Klindt seconded that we concur in the bill as amended. After a roll call vote, as "AND AS SO AMENDED BE CONCURRED IN" was put on the bill. Senator Breeden will carry the bill on the floor.

House Bill 466 - Representative Marks, sponsor, said the bill would repeal elementary and high school tuition schedules and establish annual calculation of a high school district's tuition rate on the basis of actual expenditures.

Mr. John Campbell of the Helena School District testified in support of the bill. He distributed to the committee a sheet showing the Helena School District cost per student and discussed the schedule. Copy of sheet attached herewith.

There was no opposition to the bill and the committee held discussion on the bill.

Senator Klindt moved and Senator Carl seconded that we concur in the bill. After a roll call vote, a "BE CONCURRED IN" was put on the bill.

House Bill 549 - Mr. Jim McGarvey of the Montana Federation of Teachers said the bill would provide notification of non-tenure teachers regarding their election or termination for the following year. His testimony is attached herewith.

Mr. Chadwick Smith of the Montana School Boards Association testified in support of the bill.

There was no opposition to the bill. The committee asked questions to the proponents of the bill.

Senator McCallum moved and Senator Carl seconded that we concur in the bill. After a roll call vote, a "BE CONCURRED IN" was put on the bill. Senator McCallum will carry the bill on the floor.

guard is considered an employee. Any such person who was an employee on July 1, 1961, or prior thereto and who has filed with the board an election not to become a member may at anytime, while he is an employee, file with the board an election to become a member and receive credit for prior service under the provisions of section 68-1608.

Section 59. There is a new section to be numbered 68-2511, R.C.M. 1947, which reads as follows:

68-2511. (1) For the purpose of this section, "system" means the public employees' retirement system of Montana or the teachers' retirement system of the state of Montana.

(2) Upon transfer of a person from being an employee under one system to being an employee in the other, there shall be transferred service credits, both prior and membership, as have not been forfeited by withdrawal, unless the forfeited credits shall have been reinstated as provided by law. The amounts transferred shall be determined by the boards of the systems by mutual agreement and be certified by the system from which the employee transfers. Any person who is concurrently employed by employers under both systems shall be entitled to establish credits or equities in each of the systems in accordance with and to the extent set forth in this act.

(3) Eligibility of any such person for a retirement allowance, death benefit or refund of contributions shall be governed by the provisions of the act creating the system to which the person last made contributions based upon the entire length of service for which he shall have been granted credit under both systems.

Section 60. There is a new section to be numbered 68-2512, R.C.M. 1947, which reads as follows:

68-2512. The chief administrative officer of each employer shall furnish monthly reports to the board of administration showing any changes in status during the preceding month of the employer's members resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The chief administrative officer shall furnish such additional information concerning the members as the board may require in the administration of the retirement system, including such services of the employer's office and departments as the board may request in connection with claims by members for benefits under the system.

Section 61. There is a new section to be numbered 68-2513, R.C.M. 1947, which reads as follows:

68-2513. (1) "Index" for purposes of this section shall mean,

for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959=100) compiled by the bureau of labor statistics, United States department of labor, or successor agency.

(2) Effective July 1, 1973, every service or disability retirement allowance then payable to a retired member or to his beneficiary shall be increased by a percentage equal to the lesser of one-half (½) of the percentage increase in the index for 1972 from the index for 1970 or the index for 1972 from the index for the calendar year preceding the effective date of retirement of the member.

(3) Effective July 1, 1973, every survivorship annuity then payable to a member's beneficiary shall be increased by a percentage equal to the lesser of one-half (½) of the percentage increase in the index for 1972 from the index for the calendar year 1970 or for the index for 1972 from the index for the calendar year preceding the date of death of the deceased member.

Section 62. There is a new section to be numbered 68-2514, R.C.M. 1947, which reads as follows:

68-2514. All benefits conferred upon members of the public employees' retirement system prior to the effective date of this act shall be retained for all person who are members of the system on the effective date of this act.

Section 63. Sections 68-101, 68-102, 68-201, 68-202, 68-203, 68-301, 68-302, 68-303, 68-401 through 68-405, 68-501, 68-601, 68-602, 68-603, 68-701 through 68-710, 68-801, 68-802, 68-901, 68-902, 68-1001 through 68-1005, 68-1101, 68-1201 and 68-1301 through 68-1320, R.C.M. 1947, are repealed.

Approved: March 15, 1973.

CHAPTER NO. 324

An Act Providing for Notification of Nontenure Teachers Regarding Their Election or Termination for the Following Year.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The trustees shall provide written notice to all nontenure teachers who have been reelected by the first day of April. Any nontenure teacher who does not receive notice of reelection or termination shall be automatically reelected for the ensuing school fiscal year. Any nontenure teacher who receives notification of his reelection for the ensuing school fiscal year

shall provide the trustees with his written acceptance of the conditions of such reelection within twenty (20) days after the receipt of the notice of reelection. Failure to so notify the trustees within twenty (20) days may be considered nonacceptance of the tendered position. The provisions of this section shall not apply to cases in which a nontenure teacher is terminated when the financial condition of the school district requires a reduction in the number of teachers employed and the reason for the termination is to reduce the number of teachers employed.

Approved: March 15, 1973.

CHAPTER NO. 325

An Act Creating "The Montana Strip Mining and Reclamation Act" and Providing for the Control of Prospecting For and the Strip Mining of Coal, Clay, Phospate Rock, and Uranium; Providing for Permits, Reclamation Plan Requirements, Methods of Operation, and Penalties; Providing for the Termination of Reclamation Contracts Entered into Under Chapter 245, Laws of Montana, 1967; Repealing Sections 50-1018 through 50-1033, R.C.M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as "The Montana Strip Mining and Reclamation Act."

Section 2. It being the declared policy of this state and its people

—to maintain and improve the state's clean and healthful environment for present and future generations,

—to protect its environmental life-support system from degradation,

—to prevent unreasonable degradation of its natural resources,

—to restore, enhance, and preserve its scenic, historic, archeologic, scientific, cultural, and recreational sites,

—to demand effective reclamation of all lands disturbed by the taking of natural resources, and

—to require the legislature to provide for proper administration and enforcement, create adequate remedies, and set effective requirements and standards (especially as to reclamation of disturbed lands) in order to achieve the aforementioned objectives,

the legislature hereby finds and declares:

(1) That, in order to achieve the aforementioned policy objectives, promote the health and welfare of the people, control erosion and pollution, protect domestic stock and wildlife, preserve agricultural and recreational productivity, save cultural, historic, and aesthetic values, and assure a long-range dependable tax base, it is reasonably necessary to require, after the effective date of this act, that all strip mining operations be limited to those for which annual permits are granted, that no permit be issued until the operator presents a comprehensive plan for surface reclamation and restoration, together with an adequate performance bond, and the plan is approved, that certain other things must be done, that certain remedies are available, and that certain lands because of their unique or unusual characteristics may not be strip mined under any circumstances, all as more particularly appears in the remaining provisions of this act.

(2) That this act be deemed to be an exercise of the authority granted in the Montana constitution, as adopted June 6, 1972, and in particular, a response to the mandate expressed in article IX thereof, and also be deemed to be an exercise of the general police power to provide for the health and welfare of the people.

Section 3. Unless the context requires otherwise in this act:

(1) "mineral" means coal, clay, phosphate rock, and uranium;

(2) "overburden" means all of the earth and other materials which lie above a natural mineral deposit and also means such earth and other material after removal from their natural state in the process of strip mining;

(3) "strip mining" means any part of the process followed in the production of mineral by the open cut method including mining by the auger method or any similar method which penetrates a mineral deposit and removes mineral directly through a series of openings made by a machine which enters the deposit from a surface excavation, or any other mining method or process in which the strata or overburden is removed or displaced in order to recover the mineral;

(4) "prospecting" means the removal of overburden, core drilling, construction of roads or any other disturbance of the surface for the purpose of determining the location, quantity, or quality of a natural mineral deposit;

(5) "area of land affected" means the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited and includes all